### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF E

MÖCKEL et al.

Appln. No.: 09/813,919

Filed: March 22, 2001

Group Art Unit: 1634

Examiner: J. SWITZER

Title: NUCLEOTIDE SEQUENCES CODING FOR THE dapC GENE AND PROCESS FOR THE PRODUCTION OF L-LYSINE

July 22, 2003

## SUBSTITUTE DECLARATION OF BIOLOGICAL DEPOSIT IN COMPLIANCE WITH THE BUDAPEST TREATY

Hon. Commissioner for Patents Washington, D.C. 20231 Sir:

- I, Thomas A. Cawley, Jr., hereby state as follows:
- I am an attorney of record for the above-identified patent application, and as such I am authorized to act on behalf of Degussa AG, the assignee of the application.
- Degussa AG is the assignee of the above-identified patent application as evidenced by an assignment from the inventors that was recorded in the United States Patent and Trademark Office on June 20, 2001, at Reel No. 011915, Frame No. 0356.
- 3. Corynebacterium glutamicum strain DSM 5715/pXT-dapCexp was deposited with the Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSM) under the terms of the Budapest Treaty on January 20, 2000, and assigned accession no. DSM 13254.
- DSM is a depository in accordance with the Budapest Treaty for the abovedeposited cultures. Should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed, the assignee will replace such cells for at least thirty years from the date of the original deposit, or for at least five years from the date of the most recent request for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest.
- The deposits have been made under conditions of assurance of (a) ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and (b) access to the cell lines will be available during

pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.

6. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Degussa AG

Ву

Thomas A. Cawley, Jr., Ph.D.

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Reg. No. 40,944

Attorney for Applicants

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T-577 P.004/018

8 F-625

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

FORM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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the	specification of	which (CHE	CK applicable BOX(E	<u>S77</u>			. 1111	2 2 2003
	is attached h			- 11	<b></b>	00 / 042 040	JUL	2 2 2003 (c
BOX(ES) →	B. 🛛 was file	d on Ma	rch 22, 2001		S. Application No.	09 / 813,919	<del></del>	<del></del>
			ternational Appli	cation No.	PC1/	On		- 19×
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above. Lacknowled foreign priority bendantiation which continues or PCT I	dge the duty to di: efits under 35 U.S lesignated at Icas International Appl	sciose all infor i,C. 119(a)-(d) t one other co ication, filed b	mation known to me to b or 365(b) of any foreign	e matenal to pi application(s) t ites, listed belo closing the sub	atentability as defined in a for patent or Inventor's cer w and have also identified ject matter claimed in this	tificate, or 365(a) of any P below any foreign applica	*CT Internation ation for patent	al tor inventor's
PRIOR FOREIG	N APPLICATIO	N(S)			Date first Lald-	<b>Date Patented</b>		
Number 100 14 546.9	Country GERMA		Day/MONTH/Year F 23 March 2000	<u>iled</u>	open or Published	or Granted	Priority NO	OT Claimed
If more prior foreign applications, X box at bottom and continue on attached page.  Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and claimed in this applications listed above or below and, if this is a continuation-in-pert (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all Information known to mo to be material to patentability as application:  PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)  Application No. (series code/serial no.)  Day/MONTH/Year Filed  I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may Jeopardize the validity of the application or any patent seved thereon.  And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (202) 861-S000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) Individually and collectively my attorneys to prosecute this application and to remain the Palsart and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their Firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosu								
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		2 ///	6-00		_	05-24-	2007	
(1) INVENTOR'S	SIGNATURE:	Dett.	& MOXX	;	Date:	00 21		
Name	Bettina				MOCKEL			
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(include Zip Cod	8)							
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(2) INVENTOR'S					WEISSENBORN			
Name	Anke	<u></u>	M.	iddle Initial		Family Name		<u> </u>
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Residence	Tübingen	O36-			e/Foreign Country		intry of Citizensi	nip
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☐ FOR ADD	ITIONAL IN'	VENTORS	S see attached pa on attached page	age. (incorpora	ated herein by refe	erence).		
Atty. Dkt. No. P 0211602								
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#### F-625

#### FOR UTILITY/DESIGN CIP/PCT NATIONAL/PLANT ORIGINAL/SUBSTITUTE/SUPPLEMENTAL **DECLARATIONS**

#### KULE 03 (31 C.F.R. 1.03) **DECLARATION AND POWER OF ATTORNEY** FOR PATENT APPLICATION

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FORM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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I hereby state that above. I acknowle foreign priority ben Application which continues or PCT	l have dge th efits u design: Intern	reviewed and undersite of duty to disclose all lander 95 U.S.C. 119(a) ated at least one other stonal Application. file	and the contents of the above aformation known to me to be -(d) or 365(b) of any foreign a	matens) to p pplication(s) es, listed belo osing the sut	for patent or inventor's ce by and have also identified bject matter claimed in this	rtificate, or 365(a) of any	3 HOBO BEIGH, I HOIGET GRINN
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Number 100 14 546.9	N AP	Country GERMANY	Day/MONTH/Year Fil 23 March 2000	<u>ed</u>	open or Published	or Granted	Priority NOT Claimed
expect as noted by supplication is in addefined in 97 C.F.F. application:	elow, I applica dition I 3. 1,56	hereby claim domesti itions listed above or to to that disclosed in su which became avalla	bottom and continue on attace priority benefit under 35 U.S below and, if this is a continuate prior applications, I acknow bie between the filing date of USIONAL AND/OR PCT ADAY/MONTH/Y	tion-in-part (fundamental description of the dustrial desc	ty to disclose all Informati for application and the na	on known to me to be ma	terial to patentability as at filing date of this  Priority NOT Claimed
further that these s Section 1001 of Tit And I hereby apporteness of that firm transact all business names of persons the person/assigned disclosure to be re-	int Pills n who ss in the no long ee/atto preser	ents were made with to the United States Cosbury Winthrop LLP, It are associated with Use Patent and Tradem ger with their firm, to a mey/firm/ organization ted unless/until I instructed unless/until	in of my own knowledge are the knowledge that willful false ode and that such willful false ntellectual Property Group, tellsPTO Customer No. 908 (see ark Office connected therewith and new persons of their Firm a who/which first sends/sent that the above Firm and/or an	estatements of statements of s	may jeopardize the validity ber (202) 861-3000 (to which is individually and collective e resulting patent, and I have No., and to act and remand by whom/which I hat Firm in writing to the collections.	of the application or any of the application or any altomeys to prose ereby authorize them to dely on instructions from a hereby declare that I have ontrary.	y patent issued theraon.  In to be directed), and cute this application and to lelete from that Customer No. and communicate directly with
(1) INVENTOR'S					MOCKEL		
Name	Bet			dle Initial		Family Name	
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Name	Ank	_			WEISSENBORN		
		First	Mid	die Initial		Family Name	
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DECLARATION	<b>AND POWER</b>	OF	ATTORNEY
	(continued)		

(continued)  • ADDITIONAL INVENTORS:								
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(3) INVENTOR'S	SIGNATURE: X	falle fe	7	PFEFFERLE				
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(7) INVENTOR'S	SIGNATURE:			Date:				
	· · · · · · · · · · · · · · · · · · ·				Family Name			
		First	Middle Initial		Fattilly Name			
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(8) INVENTOR'S SIGNATURE: Date:								
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(9) INVENTOR'S SIGNATURE: Date:								
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(include Zip Code)

## DECLARATION AND POWER OF ATTORNEY (continued) ADDITIONAL INVENTORS:

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Michael			MAKIMAM	Samily Name	
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(6) INVENTOR'S SIGNATURE: Y	A		PÜHLER		
Alfred	<u>,                                    </u>	h 41 J. H 1 - 44 - 1	PUNLER	Family Name	
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